Remarks

The above-referenced application has been reviewed in light of the Examiner's Office Action dated October 31, 2006. Claim 1 has been amended. No new matter has been added. Claims 1-10 are currently pending in this application. The Examiner's reconsideration of the rejections in view of the above amendments and the following remarks is respectfully requested.

Claims 1, 2, 4, 6, 7, and 9 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,804,262 to Vogel et al. (hereinafter referred to as "Vogel"). Moreover, Claims 3 and 8 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Vogel in view U.S. Patent Publication No. 2002/0157106 to Uskali et al. (hereinafter referred to as "Uskali"). Also, Claim 5 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Vogel in view of U.S. Patent No. 6,308,051 to Atokawa (hereinafter referred to as "Atokawa"). Further, Claim 10 has stands rejected under 35 U.S.C. §103(a) as being unpatentable over Vogel in view of U.S. Patent No. 6,169,569 to Widmer (hereinafter referred to as "Widmer").

Independent Claim 1 has been amended to further clarify the Applicants' invention. Support for the above amendment may be found at least at page 6, lines 5-17 of the Applicants' specification.

Initially, it is respectfully put forth that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP §2131, citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Accordingly, it is respectfully asserted that none of the cited references teach or suggest "a first filter adapted for selective coupling between the tuner and the demodulator to provide a filtered output thereof to the demodulator for demodulation; and a second filter adapted for selective coupling between the tuner and the demodulator to provide a filtered output thereof to the demodulator for demodulation", as recited in Claim 1.

In contrast to the above-recited limitations of Claim 1, Vogel discloses an RF tuner 108 having an output coupled in series to an input of a channel band-pass filter 112. The output of the channel band-pass filter 112 is then serially coupled to an input of a switch 110 having two outputs. The first output of the switch 110 is coupled to an input of a transceiver 114. The second output of the switch 110 is

coupled to an input of a narrow band-pass filter 116. An output of the narrow band-pass filter 116 is coupled to an input of a power measurement system 118. An output of the power measurement system, which outputs "A POWER LEVEL SIGNAL THAT IS INDICATIVE OF THE MEASURED POWER LEVEL", is coupled to another input of the transceiver 114 (see, e.g., Vogel, FIG. 3, and col. 10, lines 45-47).

While this configuration shown in Figure 3 of Vogel is clearly different than the first filter and the second filter recited in Claim 1 in at least that the first filter and the second filter are coupled in parallel, while the channel band-pass filter 112 and the narrow band-pass filter 116 are coupled in series, Vogel discloses that "[m]any different modifications to and configurations of this frequency selection system are possible. For example, the input of narrow band-pass filter 116 may be connected to the output of RF tuner 108, instead of to the output of the channel band-pass filter 112" (Vogel, col. 9, line 67 to col. 10, line 4).

However, in all cases, narrow band-pass filter 116 is not for providing a filtered output thereof to the transceiver (demodulator) for demodulation, but rather for providing a filtered output to a power measurement system 118 that "measures the power level of the filtered output of narrow band-pass filter and produces a power level signal that is indicative of the measured power level" (Vogel, col. 10, lines 45-47). In fact, this power measurement aspect of Vogel occurs in an initialization process.

Accordingly, the output of the narrow band-pass filter 116 is not provided to the transceiver for demodulation like the output of the channel band-pass filter 112, but rather, as noted above, the power level signal indicative of the measured power level of the filtered output of the narrow band-pass filter 116 is provided to the transceiver to aid the CPU in tuning the RF tuner 108 to a selected frequency. Thus, the whole point of using switch 110 is to switch between a channel band-pass filter (for providing essentially a full bandwidth signal for demodulation during a "routine" operating portion of the system of Vogel) and a narrow band-pass filter (for providing a filtered signal to the power measurement system during the initialization portion that is used to tune the RF tuner 108 to a desired frequency). Once this desired frequency is tuned to, the signal is provided to the channel band-pass filter 112 and, with the switch 110 placed in its first position, the signal is then provided to the transceiver for demodulation.

For example, as disclosed at column 10, lines 28-37 of Vogel:

> In order to find a useable digital data channel, during an initialization procedure, cable modem 22 uses intra-channel power measurements to distinguish digital data channels from- analog television channels, based on their differing spectral profiles.... **Cable modem 22 uses narrow band-pass filter 116 to make these intra-channel power measurements.** Filter 116 has a bandwidth substantially less than the bandwidth of the downstream channels in order to be able to select a portion of the given channel for power measurement.

As further disclosed at column 10, lines 41-48 of Vogel:

> Switch 110 is placed in its second position when cable modem makes these measurements. In this position, narrow band-pass filter 116 receives the filter signal from channel band-pass filter. Power measurement system 118 then measures the power level of the filtered output of narrow band-pass filter and produces a power level signal that is indicative of the measured power level.

Further, Vogel discloses "[w]ith switch 110 in the second (lower) position, narrow band-pass filter 116 filters the output of the filter 112 to provide a filtered output for power measurement system 118" (Vogel, col. 9, lines 52-54).

Also, Vogel discloses "**cable modem 22 uses narrow band-pass filter 116 to characterize the spectral profiles of the signal components defined by different frequency channels**" (Vogel, col. 12, lines 29-31).

With respect to the initialization process referred to above, in which narrow band-pass filter 116 is used for power measurements, Vogel further discloses at column 12, lines 40-47:

> During much of this initialization process, CPU 130 controls

switch 110 to operate in the second position, so that narrow filter 116 is used, and CPU 130 tunes RF tuner 108 so as to select which frequencies cable modem 22 receives. For each selected frequency, CPU 130 reads the signals provided by power measurement system 118 to obtain the power level of the output of filter 116 and, thus, the power of the selected slice of the frequency spectrum.

Accordingly, Vogel does not teach or suggest "a first filter adapted for selective coupling between the tuner and the demodulator to provide a filtered output thereof to the demodulator for demodulation; and a second filter adapted for selective coupling between the tuner and the demodulator to provide a filtered output thereof to the demodulator for demodulation", as recited in Claim 1.

Rather, Vogel discloses a second filter whose filtered output is used only for power level measurements, and not for demodulation.

Thus, Claim 1 is patentably distinct and non-obvious over Vogel for at least the reasons set forth above.

"To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art" (MPEP §2143.03, citing *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)). Moreover, "[i]f an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious" (MPEP §2143.03, citing *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)). As Vogel was relied upon in the rejections of dependent Claims 3, 5, and 8 under 35 U.S.C. §103(a), which each depend either directly or indirectly from independent Claim 1, it is respectfully asserted that such Claims are patentable distinct and non-obvious over all of the cited references for the same reasons as set forth above with respect to Claim 1.

All issues raised by the Examiner having been addressed, and reconsideration of the rejections and an early and favorable allowance of this case is earnestly solicited. No fee is believed due with regard to the filing of this amendment. However, if a fee is due, please charge Deposit Account No. 07-0832.

Respectfully submitted,
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